

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00670R

Parcel No. 181/00553-070-697

Aaron & Michelle Dekker,
Appellants,

v.

Polk Board of Review,
Appellee.

Introduction

This appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on December 30, 2015. Aaron and Michelle Dekker were self-represented. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

The Dekkers are the owners of a residential, two-story home located at 1008 NE 41st Street, Ankeny. The home, built in 2003, has 1482 square feet of living area. It also has a full, walkout basement with 782 square feet of living-quarter quality finish; an open front porch; a deck; a patio; and an attached two-car garage. The site is 0.177-acres. (Ex. F).

The property's January 1, 2015, assessment was \$208,400, allocated as \$47,700 in land value and \$160,700 in dwelling value. The Dekkers protested to the Board of Review claiming the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the petition.

The Dekkers then appealed to PAAB. Their appeal asserts the "assessment is too high compared to recent sold value of comparable homes in the area." It would appear this claim is that the property is assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(1)(b). However, Dekkers did not claim over

assessment before the Board of Review, and therefore PAAB cannot consider it. Iowa Code § 441.37A(1)(b). PAAB will therefore only consider their previous claim of inequity. The Dekkers assert the correct assessment is \$191,100.

Findings of Fact

The Dekkers submitted seven equity comparables to the Board of Review, which are summarized in the following chart.

Address	2015 Assessed Value	Year Built	Gross Living Area (GLA)	Basement Finish/Quality	2015 AV/SF
Subject	\$208,400	2003	1482	782 LQ Fin	\$140.62
931 NE 41st St	\$172,300	2002	1504	No Finish	\$114.56
1015 NE 41st St	\$166,300	2002	1400	400 A+ Fin	\$118.79
1019 NE 41st St	\$177,700	2002	1594	No Finish	\$111.48
923 NE 41st St	\$168,900	2003	1408	500 A+ Fin	\$119.96
1007 NE 41st St	\$189,200	N/A	1495	650 A+ Fin	\$126.56
819 NE 41st St	\$175,900	N/A	2074	464 A+ Fin	\$84.81
815 NE 41st St	\$181,300	N/A	1729	No Finish	\$104.86

The record indicates some lack basement finish, which would affect their assessments. Moreover, none of the properties recently sold, and the Dekkers did not submit an estimate of the fair market value to develop an assessment/sales ratio analysis to support an equity claim.

The Board of Review explains that despite the lack of an assessment/sales ratio analysis to support an equity claim, it considered the Dekker's comparable properties and found them to be similar in grade, style, age, and size. (Ex. A). However, the subject property is located on the north side of NE 41st Street, whereas all of Dekker's comparable properties are located on the south side of NE 41st Street. The Board of Review notes that the properties on the north side are walkout lots and many of the improvements have walkout basements, which typically have greater value. Moreover, the properties on the south side of the street are adjacent to a townhome complex and receive an economic factor that reduces their assessment 10%, which also affect their assessed values compared to the subject property. (Ex. A-C).

The Dekkers additionally submitted a Comparative Market Analysis (CMA) completed by Amy McClintock of Iowa Realty, Ankeny. (Ex. 1). We do not find it necessary to analyze this evidence as it relates to a market value claim that is not properly before PAAB.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

The Dekkers offered seven properties they considered comparable for an equity analysis. There is no information in the record indicating any of these properties has recently sold or any information about their market values. This information is necessary to establish inequity in the assessment.

For the foregoing reasons, the Board finds that the Dekkers have failed to show their property is inequitably assessed as compared to like properties.

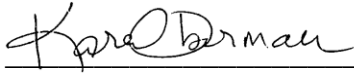
Order

IT IS THEREFORE ORDERED that the Polk Board of Review's action is affirmed.

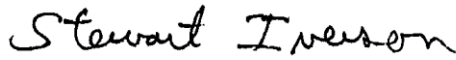
This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court

where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 18th day of February, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Aaron & Michelle Dekker

Christina Gonzalez